

EXHIBIT B

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLORADO

2 Case No. 19-mj-00277-NYW-1

3

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 vs.

7 MATTHEW BRENT GOETTSCHE,

8 Defendant.

9

10 Proceedings before KRISTIN L. MIX, United States
11 Magistrate Judge, United States District Court for the
12 District of Colorado, commencing at 2:49 p.m., December 13,
13 2019, in the United States Courthouse, Denver, Colorado.

14

15 WHEREUPON, THE ELECTRONICALLY RECORDED PROCEEDINGS
16 ARE HEREIN TYPOGRAPHICALLY TRANSCRIBED. . .

17

18 APPEARANCES

19 DAVID TONINI and JAMIE HOXIE, Attorneys at
20 Law, appearing for the Plaintiff.

21 PATRICK RIDLEY and KRISTEN FROST, Attorneys at Law,
22 appearing for the Defendant.

23

24 DETENTION HEARING

25

1 P R O C E E D I N G S

2 (Whereupon, the within electronically recorded
3 proceedings are herein transcribed, pursuant to order of
4 counsel.)

5 THE COURT: Case Number 19-mj-00277, United States
6 of America vs. Matthew Brent Goettsche -- Goettsche.

7 MR. TONINI: Good morning, Your Honor. David
8 Tonini, Assistant U.S. Attorney on behalf of the United
9 States. With me is also assistant U.S. Attorney Jamie Hoxie
10 from the District of New Jersey.

11 THE COURT: All right, Mr. Tonini, Ms. Hoxie, good
12 afternoon.

13 MS. HOXIE: Good afternoon, Your Honor.

14 MR. RIDLEY: Good afternoon, Your Honor. Patrick
15 Ridley and Kristen Frost on behalf of Mr. Goettsche who
16 appears.

17 THE COURT: Good afternoon.

18 MS. FROST: Good afternoon.

19 THE COURT: Mr. Tonini, this case, as I understand
20 it, is currently under seal. Is the Government moving to
21 remove the case from under seal?

22 MR. TONINI: The Government is moving to remove the
23 case from under seal with the exception of ECF 1. And in
24 connection with that, Your Honor, Mr. Ridley and I spoke
25 earlier today, and we would suggest just before this hearing

1 submit that it might be a good idea to clear the jury box
2 with the exception of the defendant.

3 THE COURT: All right, thank you. I would like to
4 ask the United States Marshal Service to do that. I
5 understand that Mr. O'Hara is conversing with his client. I
6 am going to let him finish that conversation and then ask the
7 marshal service to clear the jury box with the exception of
8 this defendant.

9 Counsel from New Jersey, would you give me your
10 name again, please, and spell your last name for me.

11 MS. HOXIE: Yes, Your Honor. This is United States
12 attorney Jamie Hoxie, last name H-O-X-I-E.

13 THE COURT: Thank you.

14 All right. We are here for a detention hearing
15 with respect to this defendant. I have received and reviewed
16 the United States motion for defendant's pretrial detention.
17 There is a lot of information in that motion.

18 Mr. Ridley, what's the defendant's position with
19 respect to detention? Does the defendant wish to have some
20 time to respond to the motion in writing or does the
21 defendant intend to proceed with the hearing today?

22 MR. RIDLEY: Your Honor, we're prepared to proceed
23 today.

24 THE COURT: All right, thank you. Then let me hear
25 from the Government first. Mr. Tonini or Ms. Hoxie.

1 MR. TONINI: Thank you. With leave of the Court,
2 Ms. Hoxie will address the issues.

3 THE COURT: All right, fair enough. Ms. Hoxie,
4 whenever you're ready.

5 MS. HOXIE: Thank you, Your Honor.

6 THE COURT: And by the way, the Government's motion
7 to unseal is granted. Thank you.

8 (Quality of audio for Ms. Hoxie and Mr. Ridley was
9 poor.)

10 MS. HOXIE: With the Court's permission, I would
11 like to proffer the information that's contained in the
12 pretrial services report. I would like to proffer the
13 information which I intend to go through more thoroughly
14 that's contained in the Government's motion that was filed
15 this morning, and I would like to offer for the Court's
16 consideration what has been marked Government's Exhibits A
17 through O, some of which were attached to the Government's
18 motion. There is a few that were not attached to the
19 Government's motion filed this morning.

20 THE COURT: All right. I will take judicial notice
21 of the pretrial services report, as I always do. With
22 respect to A through O, has defense counsel had an
23 opportunity to review those exhibits?

24 MR. RIDLEY: We have, Your Honor.

25 THE COURT: And does the defendant have any

1 objection to A through O?

2 MR. RIDLEY: No objection, Your Honor.

3 THE COURT: All right, thank you. A through O are
4 received.

5 MS. HOXIE: Thank you, Your Honor. May I approach?

6 THE COURT: You may.

7 MR. TONINI: It's actually A through N.

8 MS. HOXIE: I'm sorry, A through N, Your Honor.

9 THE COURT: Oh, I'm sorry, A through N. Thank you,
10 A through N are received.

11 (Plaintiff's Exhibits A through N were admitted.)

12 MS. HOXIE: May I approach.

13 THE COURT: You may. Thank you.

14 MS. HOXIE: Your Honor, with the Court's
15 indulgence, I would like to give the Court a brief kind of
16 overview of what this case is about and the nature of the
17 scheme, because I think it's important to understand the
18 nature of the scheme, not only because that's one of the
19 factors for the Court to consider in determining whether
20 there are a combination of conditions that would militate
21 against the risk that this defendant would flee or the danger
22 to the community, but also just so that you can understand
23 that if this defendant were to be released, it would be very
24 easy for him to flee and for him to continue this scheme from
25 anywhere in the world.

1 So this case is about a cryptocurrency fraudulent
2 entity called the BitClub Network, and the defendant has been
3 indicted for conspiracy to engage in wire fraud and
4 conspiracy to sell an unregistered security, a share in the
5 BitClub Network.

6 Now, BitClub Network told investors that it was
7 offering membership in the BitClub Network which then would
8 in turn allow you to invest in pool mining -- like a mining
9 pool for bitcoin. A mining pool essentially is a pool of
10 mining equipment that is connected together in order to have
11 a higher hash rate so that you are appointing the miner that
12 is more likely to mine a particular bitcoin.

13 Now, the way it works, Your Honor, put very
14 plainly -- and if Your Honor would like me to just skip
15 forward, I can.

16 THE COURT: No, no, I'm very interested in what
17 mining bitcoin might possibly mean.

18 MS. HOXIE: Okay. So the way that -- mining
19 bitcoin is essentially how bitcoin is created, how we get new
20 bitcoin. And so mining bitcoin essentially is computers that
21 are fighting to be the first computer to solve an algorithm
22 that is converting a transaction on the blockchain. The
23 blockchain is a public ledger of the bitcoin transaction.
24 And so if you are the miner whose computer whose mining
25 equipment is the first to confirm the transaction to solve

1 the algorithm, then you are awarded new bitcoin.

2 So the process of fighting with the computer power
3 to be the first -- to solve the algorithm is the process of
4 mining bitcoin.

5 THE COURT: All right, thank you.

6 MS. HOXIE: Okay. And so the hash rate is a
7 computer hash rate, that is how fast a computer can work
8 to -- to accomplish this -- to accomplish the algorithm and
9 to process forward in order to solve the algorithm and be the
10 miner awarded the particular new bitcoin. Does that make
11 sense?

12 THE COURT: It does, thank you.

13 MS. HOXIE: So, in other words, Your Honor, if you
14 have a higher hash rate, it is more likely, generally
15 speaking, that you will be the miner, the computer that is
16 awarded the newly issued bitcoin.

17 Now, bitcoin and bitcoin mining equipment is
18 incredibly expensive and requires a tremendous amount of
19 electricity to operate. And this equipment, as I understand
20 it, often becomes obsolete. There are newer and newer and
21 newer types of chips and equipment that come on the market
22 all the time and those chips are faster and better at
23 processing -- processing these algorithms.

24 And so what is common is that miners or investors
25 will pool their assets together, will pool their mining power

1 together because that will have the hash rate increase and
2 they will collectively have a higher chance of being the --
3 the entity or the pool that is awarded the newly mined
4 bitcoin. Does that make sense?

5 THE COURT: It does.

6 MS. HOXIE: So in this case, the bitcoin that were
7 told investors that they were -- what they were purchasing
8 were shares in one of three bitcoin mining pools. Now, the
9 BitClub Network also offered several other investment
10 products, but the focus of the indictment is that investors
11 purchased shares in one of these three bitcoin mining pools.

12 Now, unfortunately, at the beginning of this scheme
13 orchestrated by this defendant and some of his co-defendants
14 and other co-conspirators, at the beginning of the scheme we
15 see that this defendant and others talked about how they were
16 going to fake the pool and fake mining earnings. In other
17 words, they were telling investors that they were going to
18 get mining earnings, that they were actually mining and what
19 they were receiving were mining earnings when, in fact, that
20 does not appear to be the case.

21 In addition, Your Honor, once the defendant and
22 others actually did procure mining equipment, mining power
23 from third parties, they nonetheless continued to show
24 investors altered mining figures. In other words, they were
25 altering what they were telling investors were their profits

1 in the bitcoin mining pool, but, in fact, those numbers were
2 not tied to the actual bitcoin mining that BitClub Network
3 was accomplishing. And we see that through several chats
4 that were captured and we also see that through e-mails
5 between the defendant and his co-defendants.

6 And the reason -- one of the reasons, Your Honor,
7 why they would be altering the mining earnings is because at
8 the end of the day the BitClub Network appears to have been a
9 pyramid scheme or a Ponzi. You can see as referenced in the
10 Government's brief on page 12, Your Honor --

11 THE COURT: Give me one second.

12 MS. HOXIE: Yes, Your Honor.

13 THE COURT: All right, thank you. Page 12?

14 MS. HOXIE: Page 12, Your Honor. There are two
15 graphics on page 12, both of which were taken from BitClub
16 Network's website as it appeared in May of 2018, and you can
17 see that these are literally graphics of human pyramids. The
18 way in which -- the way in which a revenue stream for the
19 BitClub Network or a way in which members of the BitClub
20 Network were able to generate revenue was by recruiting new
21 members like any typical pyramid scheme.

22 And as this defendant and his co-defendants
23 discussed at the beginning, many of the people, the investors
24 in the BitClub Network, did not appreciate or know that only
25 a portion of their money was going to go towards bit --

1 bitcoin mining, and a large portion, between 40 or 60
2 percent, was getting funneled into this pyramid scheme MLM
3 structure, a compensation structure, which basically new
4 investors paying existing investors just for signing up.

5 And so we see in the conversations this scheme has
6 been going on from the middle of 2014 and existed as of the
7 day of the takedown, which is December 10, 2019. In fact,
8 the website, as I understand it, remains up on the Internet.
9 And so in short, that is the scheme in a nutshell, Your
10 Honor.

11 The evidence that we have of this scheme are the
12 conversations that this defendant had with his
13 co-conspirators. We have them saying with Catalin Balaci,
14 that Balaci has seen this defendant's skill at constructing
15 attractive matrices that have almost 0 percent chance of
16 paying more than 50 percent of the max for 99 percent of the
17 people. In other words, Balaci is saying that he has seen
18 this defendant do this before where he comes up with a
19 complicated compensation structure where the majority of
20 people who invest are not going to get any return.

21 We also see this defendant directing Catalin Balaci
22 to fake the mining, to fake mining proceeds. In other words,
23 he's directing the computer programmer who created the -- the
24 bones of this website, Your Honor, he's directing him to not
25 only fake the pool and fake mining earnings, he also tells

1 him to bump up the payouts.

2 In one instance, Your Honor, he tells him to bump
3 up the payouts for mining earnings by 60 percent, and Catalin
4 Balaci says that that's, I think he used, fast cash Ponzi.
5 It's in the indictment. That they're basically talking about
6 altering the figures, that they're telling the investors the
7 mining earnings, significantly, and the reason why they're
8 doing this is to promote further investment -- further
9 investment in the BitClub Network.

10 We also see, Your Honor, in 2017, the defendant
11 talks about -- he e-mails one of his co-defendants an exit
12 strategy for the BitClub member, and as part of the exit
13 strategy he says that they should start dropping mining
14 earnings significantly starting now.

15 What we see thereafter are investor updates where
16 they are talking about how mining earnings are projected to
17 not do so well, and, you know, people shouldn't be expecting
18 mining to do well in the coming months. In other words, it
19 appears that this plan that is orchestrated by the defendant
20 in 2017 ends up going into effect thereafter with -- by both
21 this defendant and by his co-defendants.

22 The nature and the circumstances of this offense
23 also includes four other people who have been indicted for
24 this fraud scheme. Three of them are -- three of them are in
25 custody in addition to the defendant.

1 So Joe Abel was arrested in the Central District of
2 California. He has significant ties, foreign ties, and he
3 has been ordered detained.

4 His co-defendant Jobadiah Weeks also has
5 significant ties. He travels around the world. He has an
6 e-mail that is included in Your Honor's material where he is
7 asking the defendant if Sir Richard Branson can be hosted at
8 one of the defendant's foreign properties. He is away, he is
9 currently detained in the Southern District of Florida. His
10 detention hearing will be Monday.

11 The computer programmer, Catalin Balaci, is a
12 Romanian citizen and he was arrested in Germany. It's my
13 understanding that he is detained pending extradition.

14 But there is one co-defendant who remains at large,
15 Your Honor. That co-defendant is this defendant's long-time
16 business partner. The materials show that that co-defendant
17 has been working with this defendant long before the BitClub
18 Network started. They are copying each other on e-mails
19 regarding private planes, and that co-defendant who is still
20 outstanding is believed to reside outside the United States,
21 is believed to have access to not only millions of dollars,
22 but also two private planes, and is believed to travel
23 extensively to countries that do not have extradition
24 treaties with the United States. All of those factors
25 militate in favor of keeping this defendant in custody

1 pending his trial.

2 In addition, Your Honor, when this defendant was
3 arrested on December 10, 2019, he was -- there was a search
4 warrant for his house and there was a warrant for his arrest.
5 When law enforcement approached this defendant's home, he was
6 observed in front of that home approximately somewhere
7 between 30 minutes, 45 minutes, an hour before law
8 enforcement actually made entry into the home.

9 Now, law enforcement actually had to breach the
10 door, and the reason why they breached the door is because
11 they knocked and no one came to the door, and then they
12 observed a figure who appeared to be a man walk from the
13 right to the left of the entryway without coming to the door
14 to let law enforcement in.

15 Now, law enforcement was banging on the door and
16 saying they were police, and no one came to the door. At the
17 time they saw the person walk from right to left, they
18 breached the door. What they saw was the defendant in the
19 entryway -- I'm sorry, in the doorway of what appeared to be
20 his home office.

21 The home office had several cellphones that were
22 charging and notably the office had two computers that
23 appeared to be set up in an operational way. And what I mean
24 by that, Your Honor, is there were monitors that appeared set
25 up on the desk as if somebody had been using them, and there

1 were two desktops, the actual towers for the computer, that
2 were, I believe, behind the desk. The desktop was connected
3 to the monitor and the desktop was also connected to the --
4 the power cord was plugged into the wall; however, the power
5 cord had been disconnected between the wall and the
6 computer. So, in other words, somebody had disconnected the
7 power supply from the wall to the computer.

8 Now, at least one of those computers we know was
9 encrypted, and so by disconnecting that power supply, it
10 makes it significantly more difficult for law enforcement to
11 get into that computer.

12 The weight of the evidence, as I said, Your Honor,
13 against this defendant is fairly substantial. We have copies
14 of his text messages -- copies of his chat communications
15 with his co-defendants talking about how they are going to
16 build this on the backs of idiots, how they want investors to
17 be unsophisticated, how the leaders understand, but the sheep
18 don't. I mean, the rhetoric of these defendants is very
19 blatant and fragrant, that they are planning on taking
20 advantage of people who are unsophisticated with bitcoin
21 mining.

22 In addition, we have e-mails between this defendant
23 and his co-conspirators, and we also have a -- we also have a
24 video by his co-defendant Joe Abel, and in that video, Joe
25 Abel says -- and this video was posted I believe in June of

1 2019, Your Honor. Joe Abel says, I think if you are
2 investing -- I think if you are promoting the BitClub
3 Network, you are promoting a Ponzi. And so the weight of the
4 evidence in this case is strong.

5 The history and characteristics of this defendant
6 also show that detention is appropriate in this case. Now,
7 while this information was not disclosed to pretrial
8 services, this defendant has a tremendous amount of wealth
9 and access to wealth in cryptocurrency accounts, in
10 exchanges, both domestic and foreign exchanges, and he has
11 run his money through several different entities and
12 several -- including what appear to be two law firms, in
13 accounts owned by two law firms.

14 These acts all make it very difficult for law
15 enforcement to trace the money, make -- and also make it
16 difficult to understand how much wealth he has.

17 Now, if the defendant were to be released, it would
18 be -- the amount of money that we're talking about here, in
19 certain circumstances, is hundreds of millions of dollars,
20 and the number that is in the indictment of what investors
21 gave to these defendants as a part of the scheme is \$722
22 million. If the defendant were to be released, there is
23 nothing from stopping him from relocating and accessing
24 millions of dollars and starting like wherever he -- wherever
25 he pleases. And what that will do, it would effectively

1 hinder law enforcement's ability, not only to get justice for
2 the victims, but would also hurt the Government's ability to
3 get some of that money, that investor money back.

4 Now, Your Honor, if you look at page -- starting at
5 page 18 of the Government's brief, when law enforcement
6 executed the search warrant at this defendant's home, they
7 found several cold storage devices. Now, a cold storage
8 device is an offline wallet that can store cryptocurrency.
9 It's basically a wallet that can store crypto that is not
10 connected to the Internet at any given time. And from these
11 cold storage wallets law enforcement was able to recreate and
12 see the amount of money, the amount of bitcoin, that had been
13 transferred through these wallets.

14 Now, those -- each of the devices and the number of
15 transfers, the date ranges and the amounts of bitcoin is
16 reflected on Government's page 18, but the total equivalent
17 in U.S. dollars of these transfers is over \$246 million, Your
18 Honor. And the analysis of where that money went is ongoing.

19 It is incredibly difficult to see where
20 cryptocurrency -- where cryptocurrency ends up because it can
21 go to exchanges that are overseas and we have no ability to
22 access those records. It is intentionally used as a sort of
23 anonymous sort of way to transfer funds, but what we can tell
24 is at least six of these transfers that total the equivalent
25 of 5 -- over \$5.7 million went to a Hong Kong-based

1 investment management company.

2 THE COURT: Are you saying that these cold storage
3 wallets likely belong to the defendant because they were
4 found in the defendant's premises on execution of the search
5 warrant?

6 MS. HOXIE: Yes, Your Honor. Or whether they
7 belonged to him or not, he had access to them.

8 In addition to the cold storage wallets, Your
9 Honor, we have insight into some of the crypto-exchange
10 accounts that this defendant maintains. Now, a crypto --
11 what I mean when I say a cryptocurrency exchange, I mean,
12 there are several different entities by which you can -- you
13 can swap out essentially cryptocurrency for fiat currency.
14 So I can take my bitcoin, go to an exchange and get fiat
15 currency in return.

16 So as shown in the bullet points on page 19, this
17 defendant has maintained an account with Zappos, which is
18 Hong Kong-based company, and from 2014 to 2017 he received at
19 least 743 bitcoin, which is the equivalent of the amount of
20 approximately just more of \$300,000 into this account.

21 He maintained an account with Poloniex, which is a
22 U.S.-based digital access exchange. He received
23 approximately \$2.6 million in transfers from 2017 to 2018.
24 But in addition to this, Your Honor, we have a screenshot of
25 his account that appears to be taken in December 2017 that

1 shows the estimated value of this one account, Your Honor,
2 has holdings of approximately \$9.4 million.

3 He also maintains an account -- maintained an
4 account with Gemini Trust from 2015 to 2017. He received the
5 equivalent of approximately \$2.6 million.

6 He maintained account with Coinbase from 2014 to
7 2017. He received the equivalent of approximately just over
8 \$2 million.

9 He maintained at least one or more accounts with
10 Bitconnect, which is headquartered in Hong Kong, registered
11 in the British Virgin Islands, from 2018 to 2019. He
12 received at least \$17 million worth of bitcoin into those
13 accounts.

14 Your Honor, we also have chat conversations where
15 this defendant is discussing that he has an entity or a
16 company in Hong Kong and that he was using that entity in
17 Hong Kong as a part of this BitClub Network scheme in some
18 form or fashion to try to hide that this scheme was operating
19 in the United States, and that's reflected in the
20 Government's motion as well.

21 Now, what I just explained is not a complete
22 snapshot of what this defendant has by way of cryptocurrency
23 accounts. There is an e-mail in which itBit, which is a New
24 York-based financial services company that trades in custody
25 services for cryptocurrencies, he was asked several --

1 several questions about his holdings, about his history of
2 bitcoin mining and cryptocurrency -- not bitcoin mining, I'm
3 sorry, cryptocurrency holdings, and in that e-mail he
4 explained that he has several trading accounts on just about
5 all of the exchanges. And when he was asked which
6 third-party bitcoin wallets he utilized, he responded in all
7 caps, ALL OF THEM, explanation point, and that is seen in
8 Government's Exhibit G.

9 In addition to these cryptoexchanges and the cold
10 storage wallets, this defendant has several entities, both
11 domestic and abroad, and several bank -- traditional bank
12 accounts that he has used to move money around from the
13 beginning of this scheme to present day.

14 For example, he has Sketch Holdings, LLC, which
15 appears to be created to liquidate his cryptocurrency
16 holdings. There were several wire transfers that were
17 funneled through this entity including a January 2018 wire
18 transfer of approximately \$2.497 million that was transferred
19 from a company in the British Virgin Islands believed to be
20 created by BitFenix to an RHB bank located in Singapore for
21 Dash Holdings, LLC.

22 Between February 2018 and March 2018, Sketch
23 Holdings, LLC received three incoming wire transfers totaling
24 approximately \$5.237 million from an entity in Hong Kong held
25 at the China Construction Bank Corporation, which is also

1 suspected to be from BitFenix.

2 Bank records showed approximately \$18.7 million was
3 deposited into accounts either controlled by Goettsche, on
4 behalf of Goettsche or at the request of Goettsche from a
5 prepaid either credit or debit card service called au Card.
6 There are several wire transfers that appear to be Goettsche
7 directing au Card to then send a wire to another third-party
8 entity. Some of those include transfers to Biltwell Holdings
9 in the approximate amount of \$7.3 million, CryptoWatt Mining
10 in the amount of \$4.5 million, one of the law firms that
11 Goettsche appears to be using to move money in \$2.8 million,
12 and another enterprise in the approximate amount of \$3
13 million.

14 During the time period from January 2018 through
15 November 2018, Goettsche deposited approximately \$28.5
16 million into a brokerage account he controlled at RBC Wealth
17 Management in the name of Goettsche Holdings through a series
18 of 12 wire transfers. The source of these transfers appear
19 to be from BitFenix, which is a a cryptocurrency exchanger.

20 And as the deposits came into the account from
21 BitFenix, Goettsche made several disbursements out of this
22 account. These disbursements appear to be approximately \$23
23 million. Some of the payments include approximately 6.7
24 million to purchase real estate and other business
25 investments, approximately 4.2 million to a company to

1 provide tax consulting services, and approximately 5.2
2 million to transfer to other Goettsche accounts at RBC Wealth
3 Management.

4 In 2018, Goettsche had an interest in an account
5 that contained at one point in time at least \$9 million as
6 the high end balance for the year in OSL, which is a company
7 in Hong Kong. OSL is believed to be related to Octagon
8 Strategies Limited. Octagon Strategies Limited made several
9 wire transfers to CryptoWatt, which is a bitcoin mining
10 equipment company, of which Goettsche has served as the CEO.
11 It appears that a total of approximately \$81 million has been
12 transferred from Octagon Strategy to CryptoWatt, and it also
13 appears that Goettsche controls and/or may have access to
14 this money.

15 It is believed that Goettsche has at least two
16 accounts at Commerce Bank in Frankfurt, Germany in the name
17 of BitChain GmbH. From August 2017 through May 2017, the
18 BitChain GmbH accounts received four wire transfers totaling
19 approximately \$6.35 million.

20 Just short of a million dollars was transferred
21 from what we were calling Law Firm 2, one of two law firms
22 that we have seen which appears to have been moving money
23 through this defendant, or at least has been used by the
24 defendant directly or indirectly to -- to move -- to move
25 funds; approximately \$2 million from an au Card account;

1 approximately \$2 million from one of Law Firm 1's account;
2 and then another approximately \$1.4 million from another
3 account held by Law Firm 1.

4 And through the course of what we've been able to
5 identify so far, it appears that Law Firm 1 and Law Firm 2
6 have run at least \$26 million of money owned directly or
7 indirectly by Goettsche through the course of this scheme.

8 In addition to these holdings, Your Honor, the
9 defendant has access to large number of properties. Exhibit
10 H is a redacted version of a list of properties that we
11 believe were owned by this defendant. They came from one of
12 his accounts that were searched in the course of this case.

13 Some of these notable properties include an island
14 that the defendant purchased in Belize for approximately \$6.4
15 in late 2017. From late 2017 to October 2019, it appears
16 that law -- what we're calling Law Firm 1 sent wire transfers
17 approximately -- totaling approximately \$7.5 million to a
18 bank in Belize.

19 And as referenced in Govern- -- on page 22 of the
20 Government's brief, the defendant -- we have chats of
21 defendant joking with one his friends about how he's
22 intending to make this island his own country, looking for
23 citizens. He says, quote, We are going to do it they like
24 they did Iceland, rape and pillage some villages looking for
25 blonde hair and blue eyes. His friend says, Absolutely, keep

1 the blood line pure. This defendant responds, LOL, you know
2 it.

3 In addition to the Belize island, this defendant
4 has at least one, possibly two properties in Costa Rica. He
5 also has a fractional interest in a condominium in St. Kitts.
6 It appears that that fractional interest is also shared with
7 his co-defendant, Jobadiah Weeks. And in the event of having
8 that fractional interest in St. Kitts, is it appears that he
9 may have purchased St. Kitts citizenship by way of that
10 fractional interest.

11 Now, many of these properties, aside from being
12 outside of the United States, also appear to generate income
13 for this defendant. So if he were to be released, he could
14 flee and he would still have an income stream, significant
15 income stream coming from these foreign properties.

16 THE COURT: Does the United States contend that he
17 is still making an income stream from the operation of the
18 website?

19 MS. HOXIE: We don't have -- we don't have insight
20 into that, but I will say, Your Honor, that this defendant
21 appears to have -- I have no reason to believe that this
22 defendant's access to the administrative account of this
23 website, which still appears to be operational, that he still
24 has access to this admin portion of the website, and that's
25 important because this website was -- it's not just a website

1 of the landing page. This is an interactive website that
2 allowed a member to log in, to see their account balance, to
3 do things.

4 And so if this defendant were to be allowed to be
5 released, it is possible that he could go to another country,
6 he could go anywhere in the world with his resources and he
7 could easily re-brand those software, the programming behind
8 this current BitClub Network website and use some of the
9 investment products, the schemes and market them to
10 unsuspected investors who will have no idea that this
11 defendant is behind this newly ranked scheme.

12 In addition, Your Honor, this defendant has a
13 private plane, in addition to access to the two private
14 planes that his co-defendant also appears to have, and he has
15 a history of extensive travel. Some of his travel is
16 reflected at the bottom of page 23 of Government's brief and
17 appears on the majority of page 24 of the Government's brief.

18 And as we said, Your Honor, even if this defendant
19 were to relinquish access to that private plane, his
20 co-defendant who is still out on the loose has access to we
21 believe two private planes. And so he is going to have
22 access to private planes whether he gives over the keys to
23 this Tango and Cash plane or not, because his co-defendant
24 who has all of the reasons to make sure that this defendant
25 does not -- does not have to stand trial, the two of them

1 have the same incentives to flee, and that co-defendant has
2 access to a private plane as well, at least we believe two
3 private planes.

4 Now, Your Honor, I understand that this defendant
5 has family in this district; however, there are reasons to
6 believe that the family that he has in this district are not
7 going to -- they're not going to stop or mitigate the risk
8 that this defendant will flee.

9 As outlined in the Government's brief, we have
10 reason to believe that the defendant's brother is also
11 involved in the scheme. We see communications at the
12 beginning of 2014 when this scheme began where the defendant
13 is directing Catalin Balaci to make several administrative
14 accounts, one of which is for the defendant, one of which is
15 for the defendant who is still out on loose, and one is --
16 one appears to be for the defendant's brother.

17 In addition, as outlined in the Government's brief,
18 we have an e-mail, or what appears to be an e-mail taken from
19 an account that was used by the brother in which it appears
20 that he is listing a to-do list of things, outstanding items
21 for BitClub Network, and it says the following:

22 Members asked about the specs of their mining and
23 complaining on the amounts they received. I hit them with a
24 BS response that says: All shares are earning and getting
25 the convenience of not having to pay a power bill or

1 maintaining their machine, and if the machine breaks, it's
2 replaced here at BCN and not at home. If they were to
3 purchase it, is this good, help is needed for this, ammo.

4 In addition, on the day of the takedown, law
5 enforcement executed a search warrant at the brother's home
6 in which they found, among other things, notes that appear to
7 be notes related to the BitClub Network, and on a white -- a
8 dry white erase board a note that says something to the
9 effect of it's okay to take advantage.

10 The fact that the defendant's brother also appears
11 to be part of this scheme weighs against allowing this
12 defendant to be released because of his family ties to the
13 community.

14 In addition, Your Honor, when law enforcement went
15 to this defendant's parents' house, the defendant's mother
16 opened the door and she appeared to be hesitant to
17 acknowledge that the brother was actually inside of that
18 residence, and the agents had to say, We know he's here, we
19 see his car outside, before the brother then emerged and was
20 able to be served paperwork that law enforcement had for him.

21 And finally, Your Honor, when this defendant --
22 when this defendant was arrested, he was heard -- overheard
23 by law enforcement directing his wife to call a person who I
24 will call Subject 1. Subject 1 we believe has opened up
25 several accounts overseas, both entities and bank accounts,

1 on behalf of this defendant. At the time Subject 1 was
2 speaking to law enforcement, but this defendant's wife called
3 Subject 1, and as a result of her conversation with Subject
4 1, Subject 1 stopped speaking to law enforcement.

5 So each of these factors, I believe, warrant that
6 this defendant should remain in custody, and notwithstanding
7 his family ties, he will remain a flight risk if he were to
8 be released on conditions.

9 And as we point out at the end of our brief, Your
10 Honor, this scheme has been very serious and has taken a lot
11 of money from a lot of people. As I mentioned earlier, what
12 we can see so far is at least \$722 million in investor funds
13 were taken, and you can see by the quote at the end of the
14 Government's brief by a victim in the e-mail to BitClub
15 Network's customer support line, expressing anger about how
16 he was -- he was duped from their Ponzi scheme, and he says,
17 You duped thousands of people from my country in Cameroon,
18 including me. You shall rot in hell for the amount of people
19 you rendered homeless.

20 This is an incredibly serious offense to the
21 Government, Your Honor. I understand that this is a white
22 collar case, but there are many, many, many victims that were
23 taken advantage of by this scheme. And the nature of this
24 scheme that it operates nearly anonymously over the Internet
25 means that if the defendant were allowed to be out, there

1 would be nothing stopping him from continuing this scheme
2 under a different name and from continuing to work with the
3 many, many, many people he knows around the world to continue
4 to defraud investors.

5 Thank you, Your Honor.

6 THE COURT: Thank you. Mr. Ridley, Ms. Frost.

7 MR. RIDLEY: Thank you, Your Honor.

8 Your Honor, what the Government has done is they
9 initially indicted Mr. Goettsche for the wrong indictment.
10 They incorporated much of that indictment in today's motion,
11 and now the prosecution has read most of the motion, and so
12 we have kind of three layers that are talking about
13 essentially the same thing.

14 But, Your Honor, what the Government didn't tell
15 you is, for example, how much money is actually lost by
16 investors. In the indictment, if you look at the reference
17 to the 722 million, it talks about the defendants obtained
18 \$722 million. Then in their motion filed late this morning,
19 they talk about the defendants having amassed \$722 million.

20 While it may be true that individuals purchased
21 mining machinery and that amounted to hundreds of millions of
22 dollars in revenue, what's not referenced, Your Honor, is the
23 fact that when the bitcoins are mined and they mined
24 additional bitcoins, money flows back to the investors; in
25 this case, to the tune of over \$700 million.

1 And this isn't a number that's an estimate or --
2 well, it's somewhat of an estimate, but it's public record,
3 because you can go to the bitcoin websites which reflect the
4 activity of the BitClub Network. And what they're doing, and
5 you can see that through -- through different entities that
6 the Government is aware of, one produced approximately -- and
7 don't hold me to this number, Your Honor, but I think \$685
8 million roughly, another one of the websites reflects that
9 there is well over \$50 million or approximately \$50 million.
10 And that money that's mined goes back to the investors.

11 Nowhere have we heard anywhere, other than the last
12 point made by the Government that a person from Cameroon
13 believes that he or she was ripped off and feels angry at the
14 people who allegedly ripped them off. Other than that, there
15 is no reference anywhere as to who lost money, how many
16 people lost money, where they lost money from, are they
17 United States citizen, are they from Colorado, New Jersey,
18 Cameroon, there is nothing about that. It's splashy, Your
19 Honor. It makes a big splash when you talk about having
20 obtained \$722 million through this scheme.

21 And you know what happens when you do that, you end
22 up with articles in the New York Times and the Los Angeles
23 Times and the Financial News, but there is no reference that
24 that's a loss amount. They talk about a guideline analysis
25 based upon \$722 million obtained or amassed. They're not

1 talking about that being a loss amount. We haven't heard any
2 analysis of what has actually been lost.

3 What is true is that when we're talking about that
4 account that has about \$250 million, that's accounts of
5 bitcoins that are going to be distributed to the network.
6 It's money that's going back to the network.

7 When we talk about some of the other accounts --
8 and I apologize, Your Honor, I only got the brief a few
9 hours, and so I can't speak that conversantly about it, but
10 there is other accounts that reflect that tens and hundreds
11 of millions of dollars are, in fact, being paid for
12 electricity, they're paying for machines, they're being used
13 to do exactly what was represented was going to take place.

14 What isn't said is that the lawyers that these
15 funds are going to are providing advice as to the legality of
16 what's going on here and that it's not just a couple of guys
17 who have got together to put together a scheme, they have
18 advisors, different ones across the country. They have not
19 been stingy about leaning on those advisors. They have tried
20 to do the right thing.

21 And so when we get to cherrypick text messages from
22 2014 and 2015, you know, that are devoid of context, it's
23 easy to come to the conclusion that this is -- that there
24 is -- these guys, you know, appear to be unsavory and
25 unseemly characters and they're just constructing a scheme to

1 defraud bunches of people for their own -- to line their own
2 pockets when these people for purchasing the mining machinery
3 are getting ripped off. That's not the case here.

4 There are people who purchased this machinery and
5 engaged in this program who have, you know, tripled, you
6 know, quadrupled, they've made a ton of money using those
7 machines. So they made those -- that money from the get-go.
8 And to be sure, the amount of money people make will
9 fluctuate necessarily based upon the price of bitcoins. And
10 so when the price of bitcoins is high, people who are mining
11 bitcoin make more money. When it's lower, they make less
12 money.

13 So when we're talking, when there is reference
14 about lower earnings or earnings are going down, that's based
15 at least in part on the fact that the price of bitcoin is
16 going down. And because the price of bitcoin is going up,
17 people are going to make money. That's what happens, and
18 it's not -- you know, the threat that this fluctuation
19 doesn't reflect that this is an illegal scheme, it doesn't
20 reflect that these folks are -- that the four defendants are
21 defrauding anybody.

22 Your Honor, I think that it is incredibly important
23 that you understand that all of these folks over here, all of
24 them, are life-long friends, friends of (inaudible)
25 immigration, uncles, aunts, Mr. Goettsche's wife, parents,

1 grandparents, and these are people who have, by and large,
2 lived in this community their entire life, like Mr. Goettsche
3 has lived in this community his entire life. These are
4 people who have supported him when he went to public school
5 in Boulder County, when he went to Fairview High School, when
6 he went to the University of Colorado. They have been here
7 for Mr. Goettsche and Mr. Goettsche has been here for them,
8 Your Honor. He is not like these other folks, the other
9 co-defendants who are apparently because another co-defendant
10 is attempting to flee or because another co-defendant lives
11 in Germany or because they're engaging in evasive actions.

12 So now Mr. Goettsche -- you know, that's attributed
13 to him because of what his co-defendant said in terms of
14 evading arrest or living overseas or having been (inaudible)?
15 He's not that guy, he is not going anywhere. He has got
16 three children under the age of 8, Your Honor, and he is not
17 leaving anywhere.

18 And the Government can talk about these different
19 accounts that -- all they can tell you about are numbers and
20 maybe where money has been transferred, but they don't know
21 why. They don't know whether money is being transferred,
22 because that's in the nature of bitcoin businesses, because
23 you transfer money sometimes because that's how it's done.
24 You can't go down to the First National Bank and turn
25 bitcoins into dollars or trade bitcoins or that type of

1 thing. So there is explanations for this money, you know,
2 the accounts which I don't have all of the explanations, but
3 I also don't think that I have to prove anything at this
4 point.

5 I get the concerns of the Government, they're
6 seeing a lot of bitcoin, a lot of money, and we're told there
7 is lots of victims, and there is this assumption of, you
8 know, hundreds of millions of dollars being gone, but I don't
9 know where that comes from.

10 So he must be leaving because he has got a bunch of
11 dough, because he travels internationally, because he has
12 access to planes.

13 I think, Your Honor, that given that he has no
14 criminal history, given that he has lived in his community,
15 given that there is nothing to indicate that he would flee,
16 the (inaudible) bond, frankly, is appropriate.

17 And I frankly don't think that supervision is
18 required, because while they talk about a lot of things,
19 frankly, not that much of it really goes to the issue of
20 flight, but I'm practical, I hear the numbers, and I hear
21 what the Government is saying, and so we don't want to be,
22 you know, in a position where we're not taking this seriously
23 and we're giving the appearance that you don't have to worry
24 about it because he'll never flee, you know, you're just
25 taking my word about it. That's not our position, Your

1 Honor.

2 If I may approach to give a letter --

3 THE COURT: You may. That's fine, either way.

4 Thank you.

5 MR. RIDLEY: Sometimes we get, more or less, formal
6 in this courthouse.

7 But as an example, the whole St. Kitts thing, the
8 fact that Mr. Goetsche applied for citizenship there is a
9 complete red herring. He applied years ago. He applied
10 with, you know, other people who were involved in
11 cryptocurrency. He did that and, in fact, he invested, I
12 think, 400 to \$480,000 in a timeshare there. He and his
13 family had been there a through a few times. Once? One
14 time, they have been there one time. And there was an
15 application for citizenship. He did make a supplement to
16 that application several months ago. He doesn't have
17 citizenship, he doesn't care about citizenship. It's not
18 nothing that he has pressed.

19 He did just yesterday, he and I, wrote this letter
20 and we sent it off indicating it's not the citizenship. You
21 know, the point is he doesn't care about it, he never planned
22 on leaving or moving there. He also didn't plan on going
23 there to evade taxes or anything else. It was an idea that
24 he developed years ago. He's not leaving, he's not leaving
25 to St. Kitts, he's not leaving to Costa Rica, he's not

1 leaving to Belize, Your Honor. Yes, he has properties in
2 both Costa Rica and Belize, and he's not going anywhere.

3 His -- you know, the Government has his passport.

4 He has no desire to do anything that would give this Court or
5 the Court in New Jersey any, any inkling that he intends to
6 leave, because what happens if he intends to leave? Well, if
7 he does that, then who is he letting down? He is letting
8 down all these people, his friends and family from life, and
9 he is not going to do that. And, you know what, they're not
10 going to all pick up and follow him to whatever country, Your
11 Honor, be it Costa Rica or Belize or whatever. Everybody's
12 life is here, their family is here, their people are here.

13 So that's not an issue.

14 In terms of the -- the plane. There is a plane,
15 Your Honor, and it's a plane that Mr. Goettsche obtained in
16 conjunction with a business transaction, I think it was
17 (inaudible), don't hold me to it, but essentially the plane
18 was kind of thrown in as part of a business deal. It's worth
19 about \$4 million. There is a \$2 million note on that plane.
20 He does use it, he has used it, and he is happy to give the
21 plane over to the Court, to impound the plane, to pledge the
22 plane, to do whatever is necessary to ensure the Court that
23 he has no interest in using that plane.

24 In terms of the planes that the co-defendant may or
25 may not have, I'm not sure what relevance that has. The

1 whole plane thing, Your Honor, frankly is a little bit of a
2 red herring because anybody with the money, and it doesn't
3 take a lot of money, but, you know, you have -- well, I mean,
4 I don't know, I've never done it, but I don't know what it
5 costs to lease a plane to go to San Jose, Costa Rica, I have
6 no idea, but I bet you can do it for under \$10,000. And I
7 bet if you wanted to leave to go to wherever, you could
8 probably do it for -- I mean, I'm guessing at that point, not
9 a great point I made in terms of the dollar amounts, but,
10 it's, you know, the ability to access a private plane does
11 not distinguish Mr. Goettsche from millions and millions and
12 millions of people in this country. And so I don't think
13 that that's a point that should be held against him, but,
14 please, have the plane and whatever -- you know, whatever
15 needs to be done in that regard, we are happy to do that.

16 The other thing, Your Honor, is that I think most
17 of these folks, I haven't had a chance to talk with them, but
18 they've all (inaudible) signed up as third-party custodians
19 doing what they can do to ensure that Mr. Goettsche appears
20 in court as he's required to do, whether that's here in
21 Colorado or in New Jersey.

22 Speaking of New Jersey, there is another condition
23 that I haven't seen occur in this jurisdiction, but I've
24 heard of it and I know is sometimes put in place on the East
25 Coast, and that is that somebody like Mr. Goettsche is

1 accompanied by the marshal to the airport on the one end, put
2 on a plane, taken out of a plane on the other end, then that
3 or anything like that he's more than willing to do, but
4 whether that's practical or comports with the, you know, what
5 resources that are available, that's another issue, but he's
6 willing to do that, Your Honor.

7 Of course, if the Court wants more, you know, there
8 are other things that we can talk about in terms of ensuring
9 his appearance like (inaudible) monitoring. I think that's
10 incredibly intrusive. I think it's, you know, very
11 difficult, but I'll tell you this, that that's not Mr.
12 Goettsche's concern. Mr. Goettsche is willing to do whatever
13 it takes, Your Honor, to prove to you, to the courts, to the
14 people in the courts in New Jersey that he's not going
15 anywhere. And he doesn't want to prove that to you so you
16 can -- you know, by way of pulling the wool over your eyes.
17 He wants to do that so he can live with his family, his
18 daughters, his wife, see his friends and family, but there is
19 another part of his desire to not being detained in this case
20 and that, as indicated, this is a very technical,
21 computer-oriented case, which frankly his lawyers are going
22 to have a very, very difficult time defending the case
23 without his ability to be there with them working through the
24 technology, working through how this all works, and it's one
25 thing to talk to somebody, but it's another thing to sit down

1 in a work prod setting to illustrate how this complex
2 technology works.

3 I know that's, you know, not a factor in terms of,
4 you know -- you know, I mean, it doesn't necessarily go to
5 flight, Your Honor, but it's -- in terms of the
6 characteristics of the case and the charges against him, what
7 the Government is saying actually to some extent supports the
8 need to not detain him.

9 Your Honor, I'm going to take some time to review
10 the Government's motion, and I apologize, but I just -- I
11 don't have it down so it's going to take a little time here.
12 It's not going to be seemless, but I think it's important
13 that we at least address some of the things that I think are
14 assumptions that the Government is making, and I think kind
15 of the innuendo that comes out of the allegations that
16 they're making in the complaint, which is designed to lead
17 folks to believe that he is a scammer and a schemer and a
18 fraudster. None of those things are the case.

19 I think that Ms. Hoxie did a good job in talking
20 about the technology and how it works, Your Honor.

21 THE COURT: I think I have a general understanding
22 of it, thank you.

23 MR. RIDLEY: And so I'm not going to comment -- a
24 lot to comment about that. But what is significant is that
25 money comes in in a significant amount, 60 percent of dollars

1 that come in from people who joined the BitClub Network, goes
2 to purchasing the machinery that mines the hardware, it goes
3 to paying for the electricity, it goes to paying for the
4 infrastructure required to power up these machines and these
5 networks of machines. That is a significant amount of money.

6 There is reference to MLM or multilevel marketing,
7 and the implication is that if it's multilevel marketing, it
8 must be fraudulent, and that's simply not the case. We're
9 all familiar with legitimate, you know, brand name multilevel
10 marketing company such as Mary Kay, there is a company called
11 Rexel, it used to be called Rexel, there is tons of them,
12 there is tons of people who engage in multilevel marketing.

13 So when you scroll down the Government's motion to
14 the diagram that looks like a pyramid, to view that and come
15 to the conclusion that, oh, my God, it must be an illegal
16 pyramid scheme that is a type fraud that is often committed,
17 it's not going to serve the case. It could be, it couldn't
18 be. It could be completely legitimate based on that
19 structure.

20 I think that these text messages from 2014, 2015,
21 2016, suffer from (inaudible), Your Honor. It's -- you have
22 a little snippet, it's five years old. It is -- you know, we
23 can certainly look at that and prove, (inaudible) conclude
24 that, oh, my God, this must be the beginning of this -- this
25 horrible Ponzi scheme where millions of people are going to

1 get ripped off, or you cannot. You can conclude that these
2 are young guys who are starting a business and who are
3 kicking around ideas, and they're bad ideas, I'll stipulate
4 to bad ideas, some of bad language, but I don't know what it
5 proves in terms of what we're discussing in December of 2019.

6 You know, just a little detail in terms of the
7 co-defendants and their attempts to flee or evade. There is
8 a reference to co-defendant Frank Abel arrested and detained
9 in California, but he has significant foreign contacts
10 (inaudible), and the fact that he was arrested several months
11 ago in Malaysia, but had the resources to describe his way
12 out of the custody and flee the country. I don't see how
13 that applies to Mr. Goettsche.

14 Mr. Balaci apparently is Romanian, but lives in
15 Germany, got arrested there, and he has been extradited.

16 Co-defendant 1 is FR. Now, speaking of
17 Co-defendant 1. Co-defendant 1 is the owner of this
18 business. Mr. Goettsche doesn't own the business,
19 Co-defendant 1 does. The other two co-defendants are the
20 distributors or the marketing arms of these entities.
21 Mr. Goettsche is the person who is in charge of mining the
22 bitcoins. And so it's frankly a little bit curious that
23 Mr. Goettsche ends up being labeled, as -- you know, I think,
24 it doesn't show on this motion, but I think in the earlier
25 redacted information, is Mr. Goettsche is the one who is

1 listed as the (inaudible) co-defendant. It seems to me if
2 there is a problem here, it's going to be people who are
3 reaching out to the investors who are marketing the product
4 or distributing the product to -- you know, to people who
5 purchased that, and the guy who does the mining wouldn't
6 necessarily follow, for me, that he would be a lead defendant
7 (inaudible).

8 The missing defendant isn't listed as the lead
9 defendant because the Government is concerned that he is not
10 going to show up, they're not going to be able to find him,
11 and then it's a difficult case if your lead defendant isn't
12 at the trial. So, you know, it has the feeling, based upon
13 my couple days on this case, that, you know, maybe because
14 they've got juicier text messages against Mr. Goettsche, but
15 you have to have the feeling that he is a little bit of the
16 fall guy for the missing co-defendant who owns and operates
17 the businesses and appears to be, based upon my understanding
18 at this point in time, the shot caller.

19 So there is the statement on page 9: If Goettsche
20 were to be released, there is a significant risk that he and
21 Co-defendant 1 will leave (inaudible) any outstanding BitClub
22 Network money to overseas accounts adding to their millions
23 in foreign accounts in portable cryptocurrency (inaudible)
24 and flee to a nonextraditing country.

25 Well, Co-defendant 1 already out there, so

1 Co-defendant 1 can already do all those things and he
2 probably has already done it.

3 THE COURT: Right.

4 MR. RIDLEY: I don't know how it follows that
5 Mr. Goettsche is going to, you know, hop on the back of the
6 pony here with Co-defendant 1 and engage in these activities.
7 Indeed, it's my experience that co-defendants don't spend,
8 other than drug cases or (inaudible) cases like this, people
9 have lawyers, right, and, you know, it doesn't follow that
10 that's a realistic, realistic threat.

11 So there is a quote on 12 and 13 below the
12 schematics of the (inaudible) -- and there is a segment that
13 says I think: If you are promoting BitClub Network, you are
14 promoting a Ponzi scheme. And these are statements of
15 co-defendant Abel. And then, to my mind, Your Honor, the
16 rest of that quote is largely incomprehensible. I don't
17 really know what it means. I know that they're talking about
18 giving billions of dollars in equipment. I don't know where
19 that number comes from, I don't know where the 650,000
20 people, I don't know who it's distributed, what the audience
21 is; but while it may be a statement that ends up being
22 admitted in front of a jury, I don't think that at this point
23 in the proceedings you can look at that and say, you know, I
24 mean -- there is just no context and it's very difficult to
25 defend against it, (inaudible).

1 In terms of the actions on December 10 (inaudible),
2 and what happens on the 10th, Your Honor, either between Mr.
3 Goettsche and, you know, his brother who was served with a
4 subpoena, this seems like a big, big discretion to me, Your
5 Honor. Apparently a law enforcement officer, and my
6 understanding is that there is approximately 40 law
7 enforcement officers. I don't know the numbers myself,
8 that's what has been told to me, but let's say 30 or 40
9 officers. I don't know how they're lined up, where they are,
10 whether they're in cars, whether they're in trucks or what
11 the circumstance is; but what -- the allegation is that, you
12 know, there appeared to be a man who walked past inside the
13 house from right to left. And after that point, law
14 enforcement had to breach the door.

15 The implication is that the law enforcement -- law
16 enforcement wouldn't have breached the door anyways. I mean,
17 my experience, Your Honor, when you've got that many folks
18 who are suited up in SWAT gear with assault weapons and
19 rifles and ramrods, they're taking down the door. And the
20 notion that it's, you know, presumably Mr. Goettsche who is
21 walking past the door from one direction to the other, his
22 walking past the door is a basis for that doesn't jibe with
23 my experience, Your Honor.

24 The -- there is discussion of cellphones with
25 two-factor authentication. That's not terribly unusual.

1 There is reference to the fact that a computer has been
2 unplugged and then the implication that they're cutting the
3 power supply to the computers rather than complying with the
4 law enforcement orders to open the door so it would be
5 difficult, if not impossible, for the law enforcement to open
6 the encrypted context inside the computers.

7 Your Honor is well aware of what these things are
8 like. I mean, there are 30 to 40 law enforcement officers
9 invading a house, weapons, trying to, you know, make sure
10 that officer safety is taken care of, having people, you
11 know, go to the ground, holding him down, restraining them,
12 making sure there is no other people. And could it be
13 possible that one of the officers, you know, knocked out a
14 plug during what is a chaotic scene? Could that be it? Who
15 knows, who knows what happened, but to come to the conclusion
16 that Mr. Goettsche, who is trying to get in the way of law
17 enforcement, as I said, is a stretch.

18 In terms of -- you know, there is some more text
19 messages on pages 14 and 15. You know, I take the same
20 position as I've already discussed. On page 15, you know,
21 the heading is Roman numeral small iii, (inaudible)
22 involvement in the offense conduct warrants detention. And
23 then there is reference to a 2018 e-mail from the brother
24 talking about checking out a map in Catgar (ph) or Cagar
25 (ph). This is on page 16. It doesn't say who that e-mail is

1 from, it doesn't have the rest of the e-mail chain. It's
2 from 2018, it's from the brother. I'm just not sure what it
3 means. You know, it kind of looks bad. It says he helps
4 me -- help is needed for this ammo, but without context, I
5 don't know what to do with it, Your Honor.

6 In terms of law enforcement found, among other
7 things, (inaudible) related to BitClub Network and a white
8 board that had displayed something to the effect of, quote,
9 it's okay to take advantage. I don't know what that means.
10 What else is on the white board? Was it Mr. Goettsche or
11 whatever? Apparently it's at the brother's house in Utah.
12 It seems completely meaningless to me.

13 December 10 there is reference to law enforcement
14 knocking on the door and Ms. Goettsche's mother answering the
15 door, and she appears to be hesitant to confirm whether the
16 brother was there or not. Well, I don't know how old
17 Ms. Goettsche is, all these folks could tell me, but I think
18 that people hesitate and are often surprised when one or more
19 law enforcement officers, and this doesn't say how many law
20 enforcement officers there were, knocked on the door. And
21 are we really to a point that we're going to justify
22 detaining Mr. Goettsche based upon the hesitancy of his
23 mother?

24 So it's on page 18 where those funds, the 246
25 million, those are funds -- those are bitcoins that will be

1 transferred to people in the network, people (inaudible).

2 I can't speak to all of the transfers, Your Honor,
3 quite candidly, on 19, other than what I've already said in
4 terms of, you know, the market for dealing with bitcoins and
5 cryptocurrency is limited and so it's not unusual to move
6 that around.

7 I note that the indictment doesn't include any
8 money laundering charges, I note that the indictment doesn't
9 include any tax offenses, despite that my understanding is
10 that the IRS is leading the charge on this case. So I don't
11 think that should be held against him.

12 In terms of the properties that he owns, he owns
13 what he owns, Your Honor, and the fact that he owns
14 properties I don't think is dispositive of his -- the
15 analysis of whether he's going to flee the jurisdiction. He
16 will be without a passport, he'll do whatever the Court wants
17 with respect to the first plane, he'll wear an ankle monitor
18 if need be. He is willing to have marshals take him to the
19 airport so he can fly back and forth from Newark. He will
20 not be visiting any of those properties. I don't know what
21 to make with the reference to Sir Richard Branson. I don't
22 think that is particularly meaningful.

23 And then, you know, the last quote from the person
24 in Cameroon, you know, (inaudible) Ponzi scheme and thousands
25 have been duped, I hope you brought. . . It is frankly, in

1 my experience, very unusual in a fraud case of this
2 magnitude, an indictment littered with those types of
3 statements, and the fact that somebody out of Cameroon has a
4 bones to pick and upset, that is what is.

5 Your Honor, I talked a little bit about Mr.
6 Goettsche's character, we talked about the nature and
7 circumstances of the offenses. I can tell you that Mr.
8 Goettsche rather than fleeing (inaudible) fighting these
9 charges. He's not going to run away from them. He's going
10 to take them straight on and he is going to do everything in
11 his power to demonstrate to his present family, to the
12 community, to the people who have read about this case from
13 coast to coast that what he was doing was what he always
14 thought he was doing, which was engaging in a legitimate
15 business that spent millions and millions of dollars on
16 infrastructure, tens or hundreds of millions of dollars on
17 these (inaudible) that had employees, that looked like and
18 felt like any other business, it had accountants, auditors.
19 That's what he plans to do, Your Honor. He does not plan to
20 flee.

21 So let me confer with my client --

22 THE COURT: Certainly.

23 MR. RIDLEY: And Ms. Frost.

24 Your Honor, if the Court has particular concerns or
25 interests in discussing the details of any of the conditions

1 we suggested or any additional conditions, of course, I would
2 be more than happy to talk about that, but for now that's it.

3 Thank you, Your Honor.

4 THE COURT: Thank you.

5 Ms. Hoxie, I'll give you the last word with respect
6 to this argument. Also, I wanted to ask you a question about
7 the alleged e-mail from co-defendant Abel mentioned on the
8 bottom of page 12 and top of page 13 of your brief. It's
9 unclear to me as to why a co-defendant in this alleged scheme
10 would be warning people about a Ponzi scheme. Maybe you can
11 explain that to me.

12 MS. HOXIE: Yes, Your Honor.

13 So the text that is on the bottom of page 12 and at
14 the top of page 13 is actually on a video that's posted on
15 line by co-defendant Joe Abel, and this video is posted in
16 June 2019. And to be clear, Your Honor, co-defendant Abel is
17 only a defendant as to the promotion charge. He is not a
18 co-defendant to the fraud charge. But I think that it is
19 telling that he does say that he thinks that this is a Ponzi,
20 and he explains why, Your Honor. He says if BitClub receives
21 no more money, they should be able to pay the 650,000 people
22 who have given them millions of dollars in equipment and
23 sales, and they should have hundreds and hundreds of millions
24 of dollars in equipment, which they don't.

25 Joe Abel through the course of BitClub Network

1 scheme was a promoter of the scheme and he identified himself
2 as one of the main people involved, that he was at the top --
3 if you're thinking of a pyramid, that he was at the top of
4 this, and here he is in 2019 saying they don't have it, they
5 don't have the equipment and the mining that they are
6 representing that they should have in light of the sales that
7 are coming from investors.

8 I don't know what -- what this co-defendant's
9 motivations are in the whole scheme of this. It's my
10 understanding that he stopped being affiliated with BitClub
11 Network after posting this, and I don't want to speculate or
12 give incomplete information to the Court as to why he would
13 have put this on the Internet.

14 If there are any particular points that Your Honor
15 would like me to address in response, otherwise I will just
16 hit some highlights.

17 THE COURT: You know, there really is not. I know
18 there is a lot of information here, I know Mr. Ridley went
19 through a lot of it. To the extent that you wish to clarify
20 anything, of course, feel free to do so.

21 MS. HOXIE: I will just note, Your Honor, there is
22 much to be said about how this is not a -- this is just an
23 MLM, this investor money went back to investors, that these
24 texts or these -- these are actually chats taken out of
25 context. Grand jury, in short, disagreed, Your Honor. This

1 is an indictment. Federal grand jury returned the wire fraud
2 conspiracy charge against this defendant and found that this
3 was fraud and that this defendant conspired to commit fraud.

4 With respect to whether this money was nefarious or
5 not, for purposes of this detention hearing, Your Honor, the
6 main focus that this defendant has access to this money,
7 whether it's by legitimate means or not, he has access to
8 millions and millions of dollars, some of which is in foreign
9 accounts, some of which is in crypto exchanges and some of
10 which was in or was transferred cold storage wallets.

11 Now, the defendant has, as we can see, entities in
12 Hong Kong, entities and accounts in Germany, crypto accounts
13 in a variety of different exchanges. That access (inaudible)
14 means that there are no combination of conditions that can
15 ensure that he will not flee. And there is little to stop
16 him from taking his family and going somewhere with these
17 millions of dollars and living a good life.

18 Now, there is mention -- there was mention that he
19 does not want to let down the people who are in this
20 courtroom; however, if you look at page 15 of the
21 Government's brief, there is explanation from his
22 co-defendant Balaci, somebody who has worked with this
23 defendant for the past ten years, and Balaci explains,
24 notwithstanding their (inaudible) relationship, what this
25 defendant did when it was advantageous to him.

1 He explains: In February he told me to buy and
2 rent extra space and deal with the power for at least an
3 (inaudible) 25 megawatts, so I did, did rental agreements,
4 bought land and a high voltage transportation station,
5 prepped everything. This month when I flew to Canada, he
6 told me that the only way he'll buy from me is if I give him
7 50 percent of my company, so he put me with my back against
8 the wall because I trusted him, and now takes advantage of
9 it, this after I literally made him hundreds of mill --
10 millions for the past two years of his stupid projects. He
11 literally has an island in Belize and a private plane. For
12 the past 11 years I was his loyal dog, did not work for
13 anyone else, and now he is treating me like this.

14 The defendant's assurances that he is going to do
15 the right thing here run contrary to the evidence that the
16 Government has in this case.

17 With respect to a mention that there were auditors
18 and that's what makes this business legitimate, you see at
19 the bottom of page 14, at the top of page 15 of the
20 Government's brief, that's just saying to Balaci, quote: We
21 can make up the numbers any way we want to appease auditors.
22 This defendant has no problem misrepresenting, lying and
23 taking advantage when it is in his interest.

24 And nothing, no conditions that this Court can
25 impose is going to change that. If he has ankle monitoring,

1 as Your Honor knows, if he cuts his ankle monitor off, it is
2 not an immediate response. There is a delay period in which
3 this defendant will have plenty of time and resources to flee
4 the country if that's what he wants to do.

5 And with respect to Co-defendant 1, the Government
6 significantly disagrees with the characterization that
7 Co-defendant 1 is not the lead defendant in this case merely
8 because he is believed to reside outside the United States.

9 You see in these chat messages there in the
10 indictment and the Government's motion that it is this
11 defendant who is directing Balaci to alter the mining
12 figures. Now, this defendant is in communication with
13 Co-defendant 1 throughout, but it is this defendant who is
14 saying bump up the volume, fudge the numbers, we're building
15 this on the backs of idiots. And it is this defendant in
16 2017 who sends to Co-defendant 1 the plan to drop mining
17 earnings significantly so that they can retire RAF, quote,
18 rich as fuck, Your Honor. That came out of this
19 defendant's -- this was this defendant, not Co-defendant 1,
20 coming up with these plans that they will to continue to
21 manipulate the numbers throughout the course of the scheme.

22 And just to be clear, Your Honor, SWAT was not at
23 this defendant's house when they made entry, there were no
24 SWATs in there. This was not a case where they knocked out
25 the plugs, Your Honor. The plugs were -- the plugs were

1 plugged into the wall. The point of disconnect was that this
2 was a -- this was a desktop. The point of disconnect was the
3 power source here, Your Honor. That is not something that
4 happens unintentionally, and I can certainly -- I would
5 certainly be skeptical of the suggestion that that would be
6 an accident that would happen to both computers that were set
7 up.

8 For these reasons, Your Honor, Government
9 respectfully requests that this defendant be detained pending
10 his trial.

11 THE COURT: Thank you. Give me just a moment.

12 MR. RIDLEY: Your Honor, if I could just address
13 the issue of the one specific e-mail that you were concerned
14 about.

15 THE COURT: Yes.

16 MR. RIDLEY: With reference to the --

17 THE COURT: The video, Mr. Abel's video?

18 MR. RIDLEY: Exactly.

19 THE COURT: Right.

20 MR. RIDLEY: And so my understanding is that --
21 that the point in time that the -- or the video was sent,
22 Mr. Able had already been terminated. There was a competitor
23 by the name Dunnings (ph), a competitor in the cryptocurrency
24 space, that paid him \$250,000 to make and upload that video.

25 THE COURT: Thank you.

1 Ms. Hoxie, with respect to Government Exhibit E and
2 an e-mail or a couple of e-mails dated 10 September 2017, is
3 the Government's contention that the writer of the e-mail
4 that begins, Dude, had an idea, is this defendant?

5 MS. HOXIE: Yes, Your Honor. It is the
6 Government's position that this defendant maintained control
7 and used -- we have redacted it so that it's not a public
8 record, but this e-mail account is under the name BitClub
9 Network.

10 THE COURT: Thank you.

11 The Court has jurisdiction over the subject matter
12 of the action and over the parties. Venue is proper in the
13 District of Colorado. Each party has been given a fair
14 opportunity to be heard on the issue of detention.

15 Mr. Goettsche, as you've heard, there are certain
16 factors I must consider under the law in making a decision as
17 to whether there are conditions of release that I can impose
18 that will reasonably assure your appearance in court in the
19 future as well as the safety of the community. Those factors
20 include the nature and circumstances of the offense charged,
21 the weight of the evidence against you and your history and
22 characteristics, including your character, your physical and
23 mental condition, your family ties, your employment, your
24 financial resources, your length of residence in the
25 community and community ties, your past conduct, your history

1 relating to drug or alcohol abuse, your criminal history,
2 your record concerning appearances at court appearances,
3 whether you were on some form of release at the time of the
4 commission of the alleged incident offense and the nature and
5 seriousness of the danger to any person or to the community
6 that would be posed by your release.

7 I have received and reviewed and take judicial
8 notice of the pretrial services report. The pretrial
9 services report reflects some information that is necessary
10 for the Court to consider, and that information was pointed
11 out by your attorney; for example, that you have very limited
12 criminal history and that you have resided at your current
13 address for ten years, that you're married, have been married
14 to your wife for 13 years, that you have three children, ages
15 8, 5 and 3.

16 I also note from the information provided to the
17 Government -- provided by the Government, excuse me, that
18 there are certain other issues that the Court must consider
19 in making a decision as to detention. I have to consider the
20 information relating to the Government's position that you,
21 in fact, have access to vast sums of bitcoin which can be
22 easily exchanged for dollars.

23 I have to consider the Government's contention that
24 on your arrest you ignored the knocking of the Government
25 officers at the door, delayed in opening the door, thus

1 requiring them to break into your home and that at the time
2 when they did so, the power supply to your two desktop
3 computers had been disconnected.

4 I have to consider the various e-mails provided in
5 the Government's submission, including some e-mails which
6 contain some statements that appear to be misrepresentations
7 or appear to endorse misrepresentations. For example, the
8 statement in the September 2017 exchange at the bottom of
9 page 14 and top of page 15 where you allegedly stated: And
10 we can make up the numbers anywhere we want to appease
11 auditors.

12 I have to consider the call that you directed your
13 wife to make at the time of your arrest. I have to consider
14 the Government's statement that the person who you directed
15 your wife to call was speaking to law enforcement about his
16 relationship with you at the time when your wife called and
17 that he thereafter ended the interview.

18 I have to consider the properties that you own, as
19 reflected in the Government's submissions, the island in
20 Belize, there is a home in Keystone, a long-term rental in
21 Pennsylvania, a home in Utah, some turnkey properties in
22 Scottsdale, some properties in Costa Rica.

23 I have to consider the amount of travel reflected
24 in the Government's submission on page 23 and 24 between May
25 of 2016 and November 30 of 2019, over a period of three and a

1 half years. By my rough count, I have you in at least 14
2 foreign countries, including Costa Rica, Mexico, Belize,
3 United Kingdom, Montreal, Germany, the Bahamas, Jamaica,
4 Macedonia, Iceland, Tokyo, South Korea, Dubai and Hong Kong.

5 I have to consider your access to a private plane.
6 I have to considerate the serious nature of the offense and
7 the serious nature of the charge -- the penalty that you will
8 face in the event that you are convicted of this offense.

9 Under these circumstances, I cannot find that there
10 is a condition or combination of conditions that I can impose
11 that will reasonably assure your appearance in court in the
12 future and, therefore. You are remanded to the custody of
13 the United States marshals.

14 Counsel, I know you will be addressing issues in
15 New Jersey. The Court will sign the commitment to another
16 district form for transportation of the defendant to New
17 Jersey for further proceedings. I will also sign the order
18 requiring the defendant to appear in the other district to
19 the extent that that's necessary as well. I know the
20 defendant will be informed of the date and time when he needs
21 to appear there.

22 Anything further from the Government with respect
23 to Mr. Goettsche today?

24 MR. TONINI: No, Your Honor, thank you.

25 THE COURT: Anything further from the defendant,

1 Mr. Ridley?

2 MR. RIDLEY: No, Your Honor, thank you.

3 THE COURT: Thank you. We're in recess.

4 (Whereupon, the within hearing was then in
5 conclusion at 4:29 p.m.)

6

7 TRANSCRIBER'S CERTIFICATION

8 I certify that the foregoing is a correct transcript to the
9 best of my ability to hear and understand the audio recording
10 and based on the quality of the audio recording from the
11 above-entitled matter.

12

13 /s/ Dyann Labo December 20, 2019

14 Signature of Transcriber Date

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